



**TENNESSEE UNDERGROUND UTILITY DAMAGE ENFORCEMENT BOARD
EXECUTIVE COMMITTEE MEETING
Meeting on November 3, 2021**

MINUTES

The Executive Committee meeting of the Tennessee Underground Utility Damage Enforcement Board commenced at 9:00 a.m., in the Ground Floor Conference Room of 502 Deaderick Street, Nashville, Tennessee 37243.

Executive Committee Members Present:

Kevin Tubberville, Chairman
Wayne Hastings, Vice Chairman
Eddie Hood

TPUC Staff Present:

Aaron Conklin, Legal Advisor to the TPUC staff
Ryan McGehee, Legal Advisor to the TUUDEB
Stacy Balthrop
Monique Brazelton
Slayde Warren

Roll Call & Minutes:

Roll call confirmed Chairman Kevin Tubberville, Vice Chairman Wayne Hastings, and Mr. Eddie Hood as present. The Committee considered the Minutes of the meeting of September 28, 2021. Mr. Hood motioned to approve the Minutes which were unanimously approved. The Executive Committee had a discussion concerning the new civil penalty of up to \$10,000.00 per violation for second time violations of the Tennessee Underground Damage Prevention Act as amended by the legislature in 2021. A motion to set a penalty scale recommendation on violations for the following was passed unanimously: first violation – training only (per statute); second violation - \$2,500 civil penalty; third violation - \$5,000 civil penalty; and fourth or subsequent violation(s) - \$10,000 civil penalty.

Presentation of Investigation of Complaints:

The Committee heard and ruled on the following complaints:

EB21-0179-

Alleged Violator: Hernandez Plumbing

Alleged Excavator: Lupe Herrera

Complainant: Metro Water and Sewer

Facility Type: Water

Equipment: Mini excavator

Root Cause: Excavating outside the requested locate area

Finding: In violation for excavating outside the requested locate area and a civil penalty of \$3,500 is assessed for subsequent violation.

EB21-0188-

Alleged Violator: Alian Cable Construction

Alleged Excavator: Samuel Cruz

Complainant: Knoxville Utilities Board

Facility Type: Sewer

Equipment: Mini excavator

Root Cause: Failure to use reasonable care within the tolerance zone

Finding: No violation

EB21-0193-

Alleged Violator: Alian Cable Construction

Alleged Excavator: Oscar Ruiz

Complainant: Knoxville Utilities Board

Facility Type: Gas

Equipment: Mini excavator

Root Cause: Failure to use reasonable care within the tolerance zone

Finding: No violation

EB21-0194-

Alleged Violator: Southern Site Contractors

Alleged Excavator: Allen Becker

Complainant: Knoxville Utilities Board

Facility Type: Gas

Equipment: Excavator

Root Cause: Failure to use reasonable care within the tolerance zone

Finding: No violation

EB21-0197-

Alleged Violator: Southern Site Contractors

Alleged Excavator: Lynn Osbourne

Complainant: Knoxville Utilities Board

Facility Type: Water

Equipment: Excavator

Root Cause: Failure to use reasonable care within the tolerance zone

Finding: In violation for failure to use reasonable care within the tolerance zone, Lynn Osbourne ordered to attend compliance training, and a civil penalty of \$625 is assessed.

EB21-0203-

Alleged Violator: Josh Bateman
Alleged Excavator: Josh Bateman
Complainant: Clarksville Gas
Facility Type: Gas
Equipment: Backhoe
Root Cause: Excavating outside the requested locate area
Finding: Administratively closed

EB21-0205-

Alleged Violator: Jason Maurer Excavating
Alleged Excavator: Michael Shiver
Complainant: Atmos Energy
Facility Type: Gas
Equipment: Backhoe
Root Cause: Failure to notify Tennessee 811
Finding: In violation for failure to give notice prior to excavation and a civil penalty of \$2,500 is assessed for subsequent violation.

EB21-0207-

Alleged Violator: Logan Excavating
Alleged Excavator: Justin Logan
Complainant: Greater Dickson Gas Authority
Facility Type: Gas
Equipment: Trackhoe
Root Cause: Failure to notify Tennessee 811
Finding: In violation for failure to give notice prior to excavation and a civil penalty of \$5,000 is assessed for subsequent violation.

EB21-0211-

Alleged Violator: Acorn Properties
Alleged Excavator: Randy Courtney
Complainant: Atmos Energy
Facility Type: Gas
Equipment: Backhoe
Root Cause: Failure to use reasonable care within the tolerance zone
Finding: In violation for failure to use reasonable care within the tolerance zone and Randy Courtney ordered to attend compliance training.

EB21-0213-

Alleged Violator: Busy Bee HVAC
Alleged Excavator: Dewayne Wilcox
Complainant: Metro Water and Sewer
Facility Type: N/A
Equipment: N/A
Root Cause: Reporting a false emergency for a locate ticket

Finding: In violation for reporting a false emergency for a locate ticket and Dewayne Wilcox ordered to attend compliance training.

EB21-0214-

Alleged Violator: Ebenezer Utilities
Alleged Excavator: Luis Rodriguez
Complainant: Metro Water and Sewer
Facility Type: Water
Equipment: Boring machine
Root Cause: Excavating beyond 15-day ticket expiration
Finding: In violation for excavating beyond 15-day ticket expiration and Luis Rodriguez ordered to attend compliance training.

EB21-0217-

Alleged Violator: Mike Stevens Homes
Alleged Excavator: Kevin Smith
Complainant: USIC
Facility Type: N/A
Equipment: N/A
Root Cause: Reporting a false emergency for a locate ticket
Finding: No violation

EB21-0218-

Alleged Violator: Royal Oaks Property Owners
Alleged Excavator: Chuck Sullins
Complainant: Atmos Energy
Facility Type: Gas
Equipment: Trackhoe
Root Cause: Excavating beyond 15-day ticket expiration
Finding: In violation for excavating beyond 15-day ticket expiration and Chuck Sullins ordered to attend compliance training.

EB21-0219-

Alleged Violator: Ramirez Fence
Alleged Excavator: Javier Munoz
Complainant: Metro Water and Sewer
Facility Type: Water
Equipment: N/A
Root Cause: Reporting a false emergency for a locate ticket
Finding: In violation for reporting a false emergency for a locate ticket and Javier Munoz ordered to attend compliance training.

EB21-0220-

Alleged Violator: Southern Site Contractors
Alleged Excavator: William Dunnaway
Complainant: Atmos Energy
Facility Type: Gas
Equipment: Trackhoe
Root Cause: Failure to use reasonable care within the tolerance zone

Finding: In violation for failure to use reasonable care within the tolerance zone and a civil penalty of \$5,000 is assessed for subsequent violation.

EB21-0222-

Alleged Violator: Roto-Rooter of Powell

Alleged Excavator: Rick Hunt

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Trackhoe

Root Cause: Failure to use reasonable care within the tolerance zone

Finding: In violation for failure to use reasonable care within the tolerance zone and Rick Hunt ordered to attend compliance training.

EB21-0223-

Alleged Violator: Star Construction

Alleged Excavator: Donny Lanier

Complainant: Atmos Energy

Facility Type: Gas

Equipment: Backhoe

Root Cause: Failure to use reasonable care within the tolerance zone

Finding: In violation for failure to use reasonable care within the tolerance zone and Donny Lanier and Eric McCary ordered to attend compliance training.

EB21-0185, EB21-0195, EB21-0196, EB21-0201, EB21-0202, EB21-0204, EB21-0208, EB21-0209, EB21-0212, EB21-0215, EB21-0221, EB21-0225, EB21-0226, EB21-0228, and EB21-0230-

Alleged Violator: First Violation

Root Cause: Failure to notify Tennessee 811

Finding: In violation for failure to give notice prior to excavation.

Discussion of Future Topics for the Next Executive Committee Meeting

Future discussion topics include a possible enforcement alternative to civil penalties for enforcing mandatory training for violators (per PHMSA suggestion). The Tennessee 811 update was to be given at the board meeting that followed this meeting.

No member of the public sought to make comment during the public comment period.

The Executive Committee meeting adjourned at 9:49 a.m.